

# **EXHIBIT “H”**

Roger Clark

HIGHLY CONFIDENTIAL

March 30, 2006

Show Low, AZ

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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In re: PHARMACEUTICAL INDUSTRY ) MDL DOCKET NO.  
AVERAGE WHOLESALE PRICE LITIGATION ) CIVIL ACTION  
\_\_\_\_\_) 01CV12257-PBS

THIS DOCUMENT RELATES TO: )  
ALL ACTIONS )

**ORIGINAL**

-----X  
HIGHLY CONFIDENTIAL DEPOSITION OF ROGER CLARK

Show Low, Arizona

March 30, 2006

11:08 a.m.

Deposition of ROGER CLARK commenced at 11:08 a.m. on  
March 30, 2006, at Show Low, Arizona, before Deborah  
L. Moreash, RPR, Certified Shorthand Reporter #50294.

PREPARED BY: DEBORAH L. MOREASH, RPR  
AZ Certified Court Reporter No. 50294

\* \* \*

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67

1 You can answer if you know.

2 THE WITNESS: I wouldn't have a clue  
3 specifically how much he paid for each one of those.

4 Q. BY MS. HEARD: Mr. Clark, it states in  
5 paragraph 17 that the drugs listed, there's a  
6 sentence about, let's see, about four or five lines  
7 down in the paragraph where it says, "During the  
8 applicable time period, Mr. Clark was prescribed and  
9 was charged for, among others, the following  
10 physician-administered prescription drugs, based in  
11 whole or in part on AWP." Do you see that language?

12 A. I see that language.

13 Q. What is the basis for the allegation that  
14 your father was charged for drugs listed in  
15 paragraph 17 based in whole or in part on AWP?

16 MR. CROWN: Object to form and foundation.

17 Q. BY MS. HEARD: Go ahead and answer.

18 A. Restate the question.

19 Q. Would you like the court reporter to read  
20 it back?

21 A. Sure.

22 (Record read.)

Roger Clark

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Show Low, AZ

March 30, 2006

68

1 THE WITNESS: Because my dad received one  
2 or all of these drugs when he was being treated for  
3 his bouts [REDACTED] and I'm going to assume that  
4 they based their prices on AWP.

5 Q. BY MS. HEARD: Okay, but you don't know  
6 for certain?

7 A. Don't know for certain.

8 Q. Okay. And going, Mr. Clark, from the  
9 bottom of page seven to the top of page eight, there  
10 is a sentence that reads, "Mr. Clark has made  
11 payments for the foregoing drugs totaling nearly  
12 [REDACTED] to date, as his supplemental insurance  
13 required him to make percentage payments for his  
14 drugs." Do you see that sentence?

15 A. I see that.

16 Q. Do you know if your father's supplemental  
17 insurance payments for his drugs?

18 A. You broke up, I didn't hear all the  
19 question.

20 Q. Okay, I'll restate it. The sentence  
21 states that your father's supplemental insurance  
22 required him to make percentage payments for his

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Show Low, AZ

69

1 drugs. Do you know that your father in fact made  
2 payments pursuant to his supplemental insurance plan  
3 for the drugs in this paragraph?

4 A. My dad was real good about paying his  
5 bills; I'm going to assume he did.

6 Q. But you don't know for certain?

7 A. I can't say for certain.

8 Q. If he made payments, do you know whether  
9 they were percentage payments?

10 A. I can't say for certain.

11 Q. Do you know if your father made any kind  
12 of copayments under his supplemental insurance plan  
13 for the drugs in paragraph 17?

14 A. What do you mean by copayments?

15 Q. Well, do you know what a copayment is?

16 A. We went over it before.

17 Q. Correct.

18 A. I'm going to say no, he didn't make  
19 copayments.

20 Q. Okay. Mr. Clark, did your father seek any  
21 other supplemental insurance plans either offered by  
22 American Benefit or by other supplemental insurers?

Roger Clark

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March 30, 2006

Show Low, AZ

70

1 A. Not to my knowledge.

2 Q. Mr. Clark, do you have any personal  
3 knowledge regarding the other paragraphs in the  
4 Complaint?

5 A. I'm going to say no.

6 Q. Mr. Clark, are you aware that the FAMCC,  
7 the Complaint we're looking at, alleges a conspiracy  
8 between doctors and manufacturers?

9 A. By reading the Complaint.

10 Q. I'm sorry, did you respond, Mr. Clark?

11 A. I did.

12 Q. I'm sorry, I couldn't hear your response?

13 A. I said by reading the Complaint.

14 Q. So you're aware by reading the Complaint  
15 that it alleges a conspiracy between doctors and  
16 manufacturers?

17 A. Yes.

18 Q. Do you agree with that allegation?

19 A. I'm going to say yes.

20 Q. What is the basis for that belief?

21 MR. CROWN: Objection to form and  
22 foundation. Go ahead.

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73

1            A.    No, I do not.

2            Q.    Do you know if your father was ever  
3 charged for [REDACTED]?

4            A.    Without looking at medical records, no, I  
5 do not.

6            Q.    Do you know if your father ever made  
7 payments for [REDACTED]?

8            A.    Specifically, no.

9            Q.    I'm going to ask some similar questions  
10 with regard to [REDACTED], which is also in  
11 paragraph 17.

12           A.    Which one?

13           Q.    [REDACTED]

14           A.    Okay. Go ahead.

15           Q.    Was your father ever administered or  
16 treated with [REDACTED]?

17           A.    Don't know.

18           Q.    Okay. Do you know how much your father's  
19 provider charged for [REDACTED]?

20           A.    Don't know that either.

21           Q.    Do you know what the drug is used for?

22           A.    Don't know that either.

1            Q.    Do you know how your father's provider  
2            determined the prices it charges for [REDACTED]?

3            A.    Don't know that either.

4            Q.    Okay. Do you know if the charges for the  
5            drug were based on AWP?

6            A.    Don't know that either.

7            Q.    Do you know if your father's Medicare  
8            coverage or supplemental insurance ever paid for

9            [REDACTED]

10           A.    Don't know that either.

11           Q.    Do you know if your father was ever  
12           charged for [REDACTED]?

13           A.    Don't know that either.

14           Q.    Do you know if your father ever made  
15           payments for [REDACTED]?

16           A.    Specifically, I don't know.

17           Q.    The drug, I apologize if I'm pronouncing  
18           this wrong, [REDACTED] in paragraph 17?

19           A.    Okay, I see it.

20           Q.    Do you know if your father was ever  
21           treated with [REDACTED]?

22           A.    Don't know.



1 A. Yes, I did; the answer was no.

2 Q. Do you know if your father was ever  
3 administered [REDACTED]?

4 A. Don't know.

5 Q. Do you know if he was ever charged for

6 [REDACTED]

7 A. Don't know.

8 Q. Do you know if he ever paid for

9 [REDACTED]?

10 A. Don't know.

11 Q. Okay. Mr. Clark, do you see that  
12 throughout paragraph 17 after each drug there's a  
13 parentheses with the names of various pharmaceutical  
14 companies?

15 A. Yes.

16 Q. Do you see that many, if not all, of those  
17 parentheticals mention more than one pharmaceutical  
18 company?

19 A. I see that.

20 Q. Okay. Do you know which of those  
21 manufacturers made each of the drugs that your  
22 father allegedly took?

Roger Clark

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March 30, 2006

Show Low, AZ

81

1 A. Not specifically I don't.

2 Q. Mr. Clark, with regards to the questions  
3 that I've been asking about these drugs in paragraph  
4 17, would your answers to these questions be the  
5 same with regard to all the other drugs that are  
6 listed in this paragraph?

7 A. I believe so, with the exception, [REDACTED]  
8 [REDACTED] I believe is [REDACTED] isn't it?

9 Q. It is. Do you know if your father was  
10 ever administered [REDACTED]?

11 A. At the [REDACTED] he was given [REDACTED]  
12 [REDACTED].

13 Q. Do you know what that drug is used for?

14 A. Not specifically.

15 Q. Do you remember when he was administered  
16 [REDACTED]?

17 A. Not exact dates, no.

18 Q. Do you know which manufacturer made the  
19 [REDACTED] that was administered to your  
20 father?

21 A. No, I do not.

22 Q. Do you know if it was in the form of an

Roger Clark

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March 30, 2006

Show Low, AZ

82

1 injection or an infusion or a pill?

2 A. I believe it was an infusion.

3 Q. Okay. Do you know how often he received  
4 [REDACTED] infusion?

5 A. No, not specifically.

6 Q. Do you know whether your father received  
7 [REDACTED] in an inpatient or outpatient  
8 setting?

9 A. It was in an outpatient setting.

10 Q. How do you know that?

11 A. I took him to the [REDACTED] clinic.

12 Q. When you say the outpatient clinic, are  
13 you referring to the [REDACTED]?

14 A. Yes, I am.

15 Q. Is your understanding of that treatment  
16 being outpatient based solely on the fact that it  
17 was administered at the [REDACTED]?

18 A. Yeah, it said outpatient services on the  
19 door.

20 Q. Okay. Do you know if your father was  
21 charged for the [REDACTED]?

22 A. I'm assuming he was; I don't know

Roger Clark

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March 30, 2006

Show Low, AZ

83

1 specifically if he was.

2 Q. Don't know for sure, okay. Do you know  
3 how much your father's provider charged for the  
4 [REDACTED]?

5 A. I do not.

6 Q. Do you know how your father's provider  
7 determined the price it charges?

8 A. I do not.

9 Q. Was your answer no?

10 A. I do not know.

11 Q. Do you know if the charges for [REDACTED]  
12 [REDACTED] were based on AWP?

13 A. I don't know.

14 Q. Do you know if your father ever paid  
15 personally for [REDACTED]?

16 A. I don't know that either.

17 Q. Okay. Do you know if the documents that  
18 you produced would indicate whether or not your  
19 father paid for [REDACTED]?

20 A. Without looking through them, I don't  
21 know.

22 Q. And is there any reason that you remember

Roger Clark

HIGHLY CONFIDENTIAL

March 30, 2006

Show Low, AZ

85

1 Q. Mr. Clark, do you have any receipts,  
2 canceled checks, or credit card statements that  
3 would reflect your father's payments, if any, for  
4 any of the drugs in paragraph 17?

5 A. I don't know that they're specifically for  
6 the drugs in paragraph 17.

7 Q. But if you do, would they be in the  
8 documents you already produced to counsel?

9 A. Yes.

10 Q. Okay. You had mentioned earlier in our  
11 discussion, Mr. Clark, and correct me if I misstate  
12 this, that your father provided receipts for  
13 prescriptions he paid to his supplemental insurer;  
14 is that correct?

15 A. I believe that's, I believe that's what he  
16 had to do, he would just let them pile up and then,  
17 when he got so much, he would send them in.

18 Q. And why did he do that?

19 A. So that he didn't have to fill out the  
20 form every single thing that he did.

21 Q. Okay. And what form are you referring to?

22 A. It's an American Benefit Plan form that